

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JUNE 18, 2003**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of June 18, 2003, was called to order by Mayor Hitchcock at 5:10 p.m.

Present: Council Members – Beckman, Hansen, Howard, Land, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Actual litigation: Government Code §54956.9(a); one case; Albert v. City of Lodi; United States District Court Eastern District, Case No. CIV S-00-2752 LKK PAN (CA)
- b) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM (CA)
- c) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Police Mid-Management, Fire Mid-Management (unrepresented), Lodi Professional Firefighters, Association of Lodi City Employees regarding General Services and Maintenance and Operators, and Executive Management Employees (unrepresented) pursuant to Government Code §54957.6

**C-3     ADJOURN TO CLOSED SESSION**

At 5:10 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:20 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:21 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

NOTE: The following Closed Session matters were heard out of order.

In regard to Item C-2 (a), Council met with staff and a representative of the City's insurance pool and gave guidance regarding the case.

In regard to Item C-2 (c), Council provided direction to the Human Resources Director.

In regard to Item C-2 (b), Council gave direction regarding an upcoming mediation session on June 27, 2003, and continued discussion of the item to its regularly scheduled meeting of July 2, 2003.

Mayor Hitchcock reported that item C-2 (b) involves the groundwater contamination suits in Lodi. There have been ongoing mediation sessions, which Council was invited to attend by the judge handling the case. Ms. Hitchcock stated that she has attended two of the mediation sessions thus far. She announced that Council voted 3-2 to not allow Council Members to attend the mediation session on June 27, 2003; however, she felt it was important and plans to attend.

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of June 18, 2003, was called to order by Mayor Hitchcock at 7:21 p.m.

Present: Council Members – Beckman, Hansen, Howard, Land, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Father Rick Matters, St. John the Baptist Episcopal Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Following introduction by Joseph Wood, Community Improvement Manager, Mayor Hitchcock presented Community Improvement Awards to Paul and Geraldine Lerma, the owners of the property at 540 ½ E. Elm Street, and to Shelly Nolan from Harvest Property Management for their action in the renovation of that residential property.

D-2 (a) Mayor Hitchcock presented a proclamation to Staff Sergeant Evans with the US Army proclaiming the week of June 8 – 14, 2003, as "United States Army Week" in the City of Lodi.

D-3 (a) Gabi del Castillo, member of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Emma Fulton from Lodi High School.

D-3 (b) Mayor Hitchcock presented a Certificate of Appreciation to outgoing Parks and Recreation Director, Roger Baltz, who had announced that he would be leaving the City of Lodi as of June 30, 2003, to accept a position as Assistant County Administrator for Charlotte County in Florida. The Mayor thanked Mr. Baltz for his dedication and service to the City of Lodi and wished him all the best in his future endeavors.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$4,266,389.40.

E-2 The minutes of May 21, 2003 (Regular Meeting), May 27, 2003 (Shirtsleeve Session), June 3, 2003 (Shirtsleeve Session), June 3, 2003 (Special Meeting), and June 5, 2003 (Special Meeting) were approved as written.

E-3 Received the report of the sale of scrap metal.

E-4 Approved the specifications for Lodi Unified School District Compressed Natural Gas Fueling Station Equipment and authorized advertisement for bids.

E-5 Adopted Resolution No. 2003-102 authorizing the purchase of four Motorola portable radios for Code Enforcement staff in the amount of \$7,762.16 using Vehicle Abatement Service Authority funds.

E-6 Adopted Resolution No. 2003-103 rejecting the low bids from Hendrix Wire and Cable Co. and Pirelli Power Cables for failure to meet specifications, and further awarding the bid for the purchase of 78,500 feet total of 750 kcmil, #4/0 and #1/0 AWG, 15 kV, EPR insulated underground cables to the next responsible bidder, The Okonite Company, of San Ramon, California, in the amount of \$137,241.19.

E-7 Adopted Resolution No. 2003-104 awarding the contract for Fire Station #1 Staff Quarters Carpeting Project to Grand Floor Design, of Lodi, in the amount of \$7,997.

- E-8 Accepted the improvements under the "Lawrence Park Playground Improvements, 350 North Washington Street" contract.
- E-9 "Adopt resolution authorizing the Public Works Director to cast ballots representing City-owned properties in favor of the North San Joaquin Water Conservation District acreage charge (\$200)" was **removed from the Consent Calendar and moved to the Regular Calendar**.
- E-10 Adopted Resolution No. 2003-105 approving the application to apply for grant funds from the California Environmental Protection Agency, Waste Tire Playground Cover Grant.
- E-11 Adopted Resolution No. 2003-106 in support for adoption of the ICC International Codes for all building and fire safety codes by the California Building Standards Commission for use in the State of California and the City of Lodi.
- E-12 Set public hearing for July 2, 2003, to consider the appeal of G-REM regarding the Planning Commission's denial of the request to amend Resolution 03-12 adding a condition of approval to the Vintner's Square Shopping Center located at the northwest corner of Lower Sacramento Road and Kettleman Lane.

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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Reuven Epstein commented that he recently read an article in *The Record* about the Lodi Skate Park. He served on the skate park committee for the city of Galt. The Galt skate park opened on June 6 and has been a great success. He noted that a large number of skaters are coming from Lodi to the Galt skate park. He voiced concern about the strong negative message that Lodi has conveyed to its youth by promising a skate park and then opening it only for very limited hours and charging high fees for entry. He reported that the skate park in Galt is open from 9:00 a.m. to 9:00 p.m. during the week and until 10:00 p.m. on Friday and Saturday. The park has fixed hours, fixed rules, no supervision, and is free. Mr. Epstein suggested that Lodi contact the Parks and Recreation Director of Galt for advice on how to run a successful skate park.

Mayor Hitchcock announced that the Shirtsleeve Session of June 24, 2003, will be held to address the Lodi Skate Park.

Council Member Hansen reported that Council Members have met on an individual basis with the operators of the skate park and are considering alternatives. The park will be free for the rest of this month on an experimental basis to determine whether it increases the use.

Parks and Recreation Director Baltz reported that the contract with Spohn Ranch requires that the park be open a minimum of 30 hours per week. They are meeting the minimum requirement by opening the park at 3:00 p.m. six days a week.

Mayor Pro Tempore Howard recalled that a few weeks ago an owner and a manager representing Spohn Ranch contacted her and expressed concern about the limited attendance at the skate park. They are in the process of considering renewal of their insurance policy for next year and wanted to know if the City was supportive of having the skate park in the community. Ms. Howard stated that she was an advocate for the skate park. As a result of her subsequent contact with the City Manager about this issue, a Shirtsleeve Session was scheduled to discuss the skate park. She also had encouraged the Spohn Ranch representatives to contact individual Council Members.

Council Member Land announced that he met with Spohn Ranch representatives and was pleased that they responded to his suggestion of temporarily opening the park for free to find out if that was the cause of low attendance.

- Arthur Price displayed the *Lodi News-Sentinel* article that was published regarding safety issues related to the large openings on the sewer catch basins in his neighborhood. He stated that it has been 32 days since he first brought this to the attention of the City Council and nothing has been done. He noted that other areas of new development have the older style catch basins. He believed the City's lack of action on this matter to be gross negligence. Mayor Hitchcock pointed out that this matter is addressed on tonight's agenda under Item I-4.

Mr. Price replied that making a purchase and remedying the problem are two different things. He reiterated that nothing has been done in the way of remedial work to take care of these hazards.

Council Member Land reported that he measured the catch basins in the surrounding area of his home and found the opening to be four inches. In Mr. Price's neighborhood the openings were 15 inches. He acknowledged that the City made a mistake and would correct it.

Wally Sandelin, City Engineer, stated that staff has brought a mock up to the meeting of how it intends to retrofit the existing basins by installing a bar across the face. Two trial remediations have been made in the field and staff is prepared to proceed with installation within a week.

- Dale Edwards introduced himself as a citizen of Lodi and pastor and spiritual leader in the community. He recently read an article in *The Record* about the adult bookstore and litigation against the City. He commented on changes that have taken place over the past 30 years, which he saw as a deterioration of society. He had chaired a committee addressing issues of internet pornography and found that it is commonly believed that every rape has its roots in pornography. He stated that the purveyors of pornography are not productive citizens, are only concerned with making money, and contribute to the destruction of society. Mr. Edwards believed that the framers of the nation had in mind the idea of public descent, the ability to speak out on issues that dealt with government, and policies of community living. The idea of immoral values being so promoted as to be protected by the voice was never in their mind. In that day, moral virtue, modesty, and decency were protected from those who advanced moral corrupting influences. Mr. Edwards stated that today there are laws and courts, especially on the "left side," that seem to be much more liberal in their espousing of these vile manners. He believed that the citizens of Lodi and other communities in the country have backed down to these strong voices that stand against right moral values. He felt that leaders have a responsibility to protect the moral conduct of a community and he stood strongly against anything that would deteriorate the City's adult oriented business ordinance.
- Mark Bowman stated he has two children on the City's Dolphin swim team. He had received a notice from the Parks and Recreation Department that the team was being eliminated. He provided written communication to Council outlining questions and requests (filed). He complained of a lack of communication on this issue and asked that the matter be placed on the next Council agenda. He noted that verbal assurances have since been made that the Dolphin team will not be eliminated and asked the City Manager to direct the Parks and Recreation Department to send out notices to the 117 swim members that are affected by this action.

City Manager Flynn acknowledged that he signed the letter last Friday that was sent to members of the Dolphin swim team. After a subsequent meeting with the Parks and Recreation Department, it was believed to have been a bad decision and the City's position was reversed. The matter will be discussed at the July 8, 2003, Shirtsleeve Session. Letters will be mailed to effected parties by this Friday informing them that the team will continue for the rest of the season.

- George Mull informed Council that he was the attorney that City Attorney Hays was quoted as calling a "scumbag" in today's newspaper, *The Record*, and he asked for an apology. Mr. Mull stated that he was a sixth-generation Californian, came from a prominent line of attorneys in

northern California, and has done a great deal of work for civic causes and charities. Mr. Mull reported that he called the ethics hotline at the American Bar Association and received confirmation that it was alright to speak to a represented party that has an attorney, because in this case, the party consists of public officials. He stated that a settlement offer was given to the City on May 20, 2003. This was done following discussions with Deputy City Attorney Schwabauer who had asked that the offer be put in writing and indicated that it would be placed on a City Council agenda for consideration the following week. Mr. Mull later received a message from City Attorney Hays who stated that he would not place the matter on Council's agenda and abruptly ended the phone conversation. Mr. Mull stated that according to the California Rule of Professional Responsibility, attorneys are required to bring settlement offers to their clients. He then provided a copy of the settlement offer to Council. Contrary to Mr. Hays' opinion, as was quoted in the newspaper article, Mr. Mull stated it was not the same offer that had been discussed previously. Three years ago when the ordinance was adopted, Mr. Mull recalled that he had warned Council about certain portions of it. Two years after that, six people were arrested at Tim Kruppe's businesses for not having the licenses that were required under the City's ordinance. The licenses require Social Security numbers, driver's license numbers, fingerprints, and full background checks. Mr. Mull stated that it is violative of the First Amendment to require someone in the sale of books or videos to get a discretionary permit from the City. After the arrests and subsequent discussions with the City, Mr. Mull had been told that changes would be made to the ordinance; however, it has been 500 days and no amendments have been made. Consequently at the end of January he was forced to file a federal lawsuit. At any point after filing the lawsuit, the City could have changed the ordinance, which would have mooted the lawsuit. Instead of doing so, Mr. Mull stated that the City filed an opposition that admitted what was wrong and made weak legal arguments and false factual arguments to the court. Mr. Mull stated that he had asked Mr. Hays to convey to Council that he offered to contribute half of his attorney's fees on this matter to charity. He noted that last year he gave over \$100,000 to help school children, and one of the beneficiaries was Beckman Elementary school in Lodi. A default has now been taken against the City. To set it aside the City must show that it has a meritorious defense, which Mr. Mull stated does not exist. He stated that there are three causes of action, two of which he outlined as follows:

- 1) The City's public assembly ordinance requires that ten days before anyone assembles publicly they must make an application to the Community Development Director who can approve or deny it as he sees fit.
- 2) The City's ordinance that requires permits for live entertainment does not specify that it is only for certain locations and it prohibits stages or dance floors. Mr. Mull stated that this ordinance, in essence, outlaws theaters in the City.

Mr. Mull stated that these ordinances have no basis in law and are violative of the constitution. He reminded Council that as elected officials they swore an oath to uphold the constitution. He urged Council to seek independent counsel that has expertise in this area of the law. He reported that the six state actions brought against Mr. Kruppe and his employees were dismissed last month. Mr. Mull stated that he would hold his settlement offer open until July 3, 2003. In response to the previous speaker, he hoped that the country would maintain its basic constitutional values of free speech and acceptance of diversity and that the Council would consider its responsibilities as elected officials and make a non-emotional and reasoned response to this issue.

Council Member Beckman offered Mr. Hays an opportunity to respond.

City Attorney Hays reported that this matter had been before Council. Mr. Mull subsequently sent a more recent offer, which contained the same elements of the previous offers Council had considered and given his office direction on to how to respond. Mr. Hays stated that he would agendize the offer Council has been given today.

- John Conner identified himself as the head coach of the Piranhas swim team. He reported that the City has six teams, five of which swim in public pools that restrict practice time to two hours in the evening. The Dolphin team was created two years ago to accommodate an increased number of youth in the swim program. Since February there have been five head coach meetings to discuss the possibility of disbanding the Dolphin team; however, the coach for the Dolphins did not participate and it resulted in a lack of communication to the team members and their parents.
- Timothy Kruppe stated that he represented the businesses of Intimates and Adult Pleasure World. He asked City Attorney Hays to apologize for the derogatory comment he made about Mr. Mull, which was quoted in today's newspaper article. He stated that this matter is not just about the adult business ordinance; it is about rights in general. He complained of harassment and unprofessional conduct of City representatives.

Council Member Hansen recalled that in his former position as Chief of Police he spoke with Mr. Kruppe about his business and the influence it has on the community. He stated that the City had tried to prevent these businesses from opening in Lodi, but were prohibited from doing so because of case precedent and constitutional laws. He commented that because of these laws the City has to put up with something that the majority is opposed to. He disagreed with many of the comments made by Mr. Mull and stated that though Mr. Hays represents the City, the characterization he made of Mr. Mull was his comment and his decision.

Mr. Kruppe again asked that Mr. Hays apologize.

Council Member Land stated that it would be looked into.

Mr. Kruppe believed that this teaches children that it is alright to lie, not respect others, and not apologize when they are wrong.

Council Member Beckman stated that his understanding as a lawyer was that Mr. Hays' comment was in reference to the legal tactics that Mr. Mull used in getting the judgment. He stated that if the tactics were as Mr. Hays' explained to him, that he would agree with the characterization he made about Mr. Mull. That being the case, he would not ask him to apologize for something that he agreed with.

- Ken Owens, Director of Christian Community Concerns, stated that his organization brought the ordinance to Council in 2000. He believed that Mr. Mull owed Mr. Hays an apology for publicly calling him incompetent. Mr. Owens urged Council to keep the ordinance intact as he wanted to have the strongest ordinance possible to regulate and eradicate businesses that are perpetrators of immorality in the community. He stated that he has spoken with experts in the field of First Amendment laws and they have supported the actions of Mr. Hays regarding the adult business ordinance.
- Harold Hensley stated that Tim Kruppe is his stepson. He believed there were too many restrictions in Lodi and reported that Mr. Kruppe had to contact the Chief of Police before he could place an ad in the newspaper. Mr. Hensley alleged that he was verbally abused by police officers for taking pictures in front of Mr. Kruppe's store, that one of the commanders tried to engage him in a physical altercation, and that the police have bugged Mr. Kruppe's home.

#### G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the appeal of Ann M. Cerney and Citizens for Open Government regarding the Planning Commission's approval of the request of Jim Manion, on behalf of Lowe's, to certify a Final Environmental Impact Report for the Vintner's Square Shopping Center pursuant to the California Environmental Quality Act.

City Attorney Hays clarified that with this action, the Council is not opening the public hearing, it is simply addressing staff's recommendation for continuance of the hearing.

PUBLIC COMMENTS:

- Ann Cerney stated that she was speaking on behalf of herself and the Citizens for Open Government. She objected to the continuance of the hearing and stated that she was provided with a notice that the appeal would be heard tonight and had been prepared to present it. It was apparent after later receiving the notice of the request for continuance that staff was not prepared for Council to hear the appeal tonight and consequently her legal counsel had not come to this meeting. She stated that the continuance of the appeal hearing violates the City's own procedures and prejudices her appeal. The City is showing preferential treatment to another applicant by insisting on hearing both appeals on the same date. She noted that continuing this appeal in no way expedites G-REM's appeal, which was filed too late to be heard at tonight's meeting. She objected to the staff report, which indicates that the two appeals are closely related. Her appeal challenges the Planning Commission's certification of the Final Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA), while G-REM's appeal challenges the Planning Commission's refusal to adopt a new project condition completely unrelated to CEQA compliance.

Council Member Beckman disagreed that the continuance prejudiced Ms. Cerney's appeal and noted that it allows her two more weeks to prepare her case.

Mayor Pro Tempore Howard felt that it was helpful and important that both matters be discussed on July 2 because they have an impact on one another and the decisions are related to the project. Discussion regarding the Final EIR will involve mitigation, which is a component of the G-REM appeal.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously continued the subject public hearing to the City Council meeting of July 2, 2003.

RECESS

At 9:10 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:25 p.m.

G. PUBLIC HEARINGS (Continued)

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to adopt by resolution the 2003-05 Financial Plan and Budget and the 2003-04 Appropriation Spending Limit.

City Manager Flynn reported that the cost of medical care will increase from the current \$2.5 million to \$3.2 million in 2003-04 and \$3.8 million in 2004-05. General liability will increase from \$650,000 to \$1 million next year. Workers Compensation will increase from \$836,000 to \$1,739,000 next year. The contribution that the City pays to the Public Employees Retirement System will increase from \$2.4 million to \$3.3 million in 2003-04 and to \$5.4 million in 2004-05. The proposed 2003-05 Financial Plan and Budget does not address any potential impact from the state's budget. There has been discussion about pulling the trigger to reestablish the Vehicle License Fee; however, it would not go into effect until October 1. In this case the City would lose one quarter of the backfill for next year, which he estimated to be \$532,000. The League of California Cities has suggested a formula that equates to \$17 per person. Using this formula, with a population of 60,000, Lodi could potentially lose \$900,000. Mr. Flynn noted, however, that the League has

advised cities not to take anything seriously at this time that the legislature is doing because there is a great deal of bargaining going on between legislators, the Governor, and different interest groups. Workers Compensation, liability, and medical insurance costs are causing problems for business in general throughout California, which will equate to a loss of jobs and income tax revenue. Consequently Lodi is faced not only with a fiscal crisis within the City, but a financial crisis throughout the state. He suspected that when the state budget is finalized, staff would be returning to Council with a revised City budget in response to the impacts.

Mr. Flynn stated that overall reserves citywide, all funds combined, is 22.7%. Fourteen public meetings have been held to discuss the budget, staff has met with Council Members individually, with business leaders in the community, bargaining groups, and City employees. Four scenarios were brought to Council using recommendations from the revenue enhancement committee, expenditure reduction committee, and reduction of force committee. Following Council input a fifth scenario was developed. Thus far ten employees have signed up for the Voluntary Time Off program, which will save the City \$35,000. The budget includes \$950,000 in salary adjustments to bring employees up to mean of the 15 survey cities. Employees will begin to pay for part of their medical insurance costs. Three firefighters will be added to the Fire Department's staffing level in the 1<sup>st</sup> year of the budget, and one in the 2<sup>nd</sup> year. Page H-14a is a description of what Other Sources and Uses are. During previous discussions Council asked that the following items be pulled for a separate vote:

- 1 High Crime Investigator – 2004-05
- 3 Firefighters – 2003-04
- 1 Firefighter – 2004-05
- 6 Paramedics – 2004-05
- 1 Electrical Technician – 2003-04
- \$50,000 to the Salvation Army for the New Facility Capital Campaign
- \$130,000 to the Lodi Conference and Visitor Bureau

Mr. Flynn stated that fee increases will be brought back to Council for discussion and specific action. Capital projects will be brought back individually as funds are identified. An estimated timeline for the major capital projects will be discussed at a future Shirtsleeve Session. Staff is looking into a public survey to assess what projects are important to the community, how they would like to see them paid for, and the general level of satisfaction with City services. He stated that the reclassification of Deputy City Manager to Assistant City Manager in 2004-05 will not result in a salary increase.

In reply to Council Member Hansen, Finance Director McAthie reported that the 22.7% citywide reserve equates to \$33,136,851.

In reference to Mr. Flynn's earlier comment related to fee increases, Mayor Pro Tempore Howard noted that increases associated with Parks and Recreation programs and Hutchins Street Square will not be coming back to Council. Mr. Flynn confirmed this and clarified that he was referring to fees related to fines, permits, etc.

In reply to Council Member Land, Mr. Flynn reported that he did not calculate or make adjustments for the potential loss related to the VLF 90-day lag in funding if the trigger is pulled.

#### Hearing Opened to the Public

- Captain Frank Severs of the Lodi Salvation Army thanked the Council for including the \$50,000 contribution in the City's budget.



- Annette Murdaca asked that Council honor its previous commitment to contribute \$250,000 over the next five years to the Salvation Army. She stated that they have worked very hard to raise the rest of the money and reminded Council that the City had asked them to move their facility.

Mayor Hitchcock recalled that she had asked that this item be voted on separately; however, she no longer wished to as she felt that the new facility benefits the City's economic development, improves the downtown area, and provides needed housing for the homeless.

Council Member Beckman replied that he would like the item pulled and voted on separately. He did not see providing taxpayer money to a charitable organization as a proper role for government.

Council Member Hansen believed that by voting in favor of this request it would define Lodi as a community that cares about the less fortunate. He felt that the Council had an obligation to live up to its previous commitment.

Mr. Flynn commented that the people of Lodi "take care of their own" as opposed to having the county come in and build a facility to shelter the homeless, which he noted would likely be much more costly. Lodi's programs are successful because they are grassroots programs that have the support of the community.

Public Portion of Hearing Closed

MOTION #1 / VOTE:

The City Council, on motion of Council Member Land, Hansen second, approved funding of \$50,000 to the Lodi Salvation Army for the New Facility Capital Campaign. The motion carried by the following vote:

Ayes: Council Members – Hansen, Howard, Land, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

NOTE: Due to a potential conflict of interest, as his spouse is the Executive Director of the Lodi Conference and Visitor Bureau (LCVB), Council Member Beckman abstained from discussion and voting on the matter related to funding the LCVB.

Council Member Hansen commented that he met with representatives of the LCVB who demonstrated the value of the City's investment in terms of bringing people into the community. He suggested that the LCVB give a presentation to Council at an upcoming Shirtsleeve Session, as well as the other community promotions organizations.

Nancy Beckman, Executive Director of the LCVB, reminded Council that a special joint meeting was scheduled on April 3, 2003, for this purpose.

MOTION #2:

Council Member Hansen made a motion, Land second, to approve funding of \$130,000 to the Lodi Conference and Visitors Bureau.

DISCUSSION:

Mayor Pro Tempore Howard stated that if mid-cycle adjustments must be made to the budget, she would be looking at community promotions funding first.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Howard, Land, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Beckman

Mayor Hitchcock displayed an overhead (filed) and reported that Other Sources and uses totals \$2.5 million in 2003-04 and \$2.7 million in 2004-05. Referencing page G-7 she pointed out that there is a \$3.8 million shortfall in the 1<sup>st</sup> year. There is a gain from the enterprise fund of \$1.8 million; however, the shortfall still remains at \$1.9 million. The \$1.9 million shortfall is being balanced by \$2.5 million in the category of Other Sources and Uses, which is a soft number. Because it is balancing the shortfall, it decreases the reserve by \$561,000. She emphasized the importance of showing where the Other Sources and Uses are coming from. She believed that everything should be fully disclosed to the public. She asked how anyone could be held accountable for the end result, when Council does not have this information. She expressed concern about approving a budget that balances itself with a figure from which its source is not identified.

Discussion ensued regarding the budget format and the Mayor's recommendation.

Council Member Hansen was in favor of the current process.

Council Member Beckman acknowledged that the budget document has numbers that reflect something that the City has not yet done. He suggested that it might be appropriate to have a separate addendum identifying that the figures represent what might happen if Council takes certain actions in the future. He stated that this would be a policy decision for future discussion, possibly at a Shirtsleeve Session.

Mayor Pro Tempore Howard felt that the budget format was adequate as is, and pointed out that page H-14a defines what falls under the category of Other Sources and Uses.

Council Member Land noted that the City has received clean audit reports and budget recognition awards.

Mr. Flynn added that prior to the new budget format adopted in 1994-95 when he was hired, the City never received an award. He commented that the budget format has been discussed ever since Mayor Hitchcock has been on the Council and she has always used it as one of her basis for never voting in favor of the budget.

MOTION #3:

Mayor Hitchcock made a motion to fully disclose an itemization of what the sources are under Other Sources and Uses of \$2.5 million in 2003-04 and \$2.7 million in 2004-05, what the expenditures are, and the balance – not to be shown as designated for labor negotiations, but to be designated as unexpended reserve. The motion **died** for lack of a second.

Council Member Beckman pointed out that the City is having financial difficulties, department heads have been asked to make cuts, there are 10 vacant positions, and at the same time the City is hiring 12 new positions.

MOTION #4 / VOTE:

Mayor Pro Tempore Howard made a motion, Land second, to approve the following new positions:

- One High Crime Investigator (2004-05)
- Three Firefighters (2003-04)
- One Firefighter (2004-05)
- Six Paramedics (2004-05)
- One Electrical Technician (2003-04)

DISCUSSION:

Council Member Hansen commented that except for the Electrical Technician, which comes from the enterprise fund, all of the positions are public safety oriented. Council has stated that public safety is the number one priority in this community. In a tight budget sacrifices have to be made in terms of other positions. He stated that the positions that are not going to be filled are nice to have, but are not critical in terms of public safety.

Mayor Hitchcock concurred that public safety is the number one issue.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Howard, Land, and Mayor Hitchcock

Noes: Council Members – Beckman

Absent: Council Members – None

Mayor Hitchcock objected to Mr. Flynn's earlier comment and stated that she has not used the Other Sources and Uses in the past to vote against the budget. She explained that with only a \$2.6 million reserve and \$2.5 million of Other Sources and Uses, which are not identified, she was not comfortable in approving the budget. She commented that by using this budget format she could not be held accountable, nor could staff.

Council Member Land believed that the City Manager did a great job in reducing the budget and utilizing creative ideas to balance it. He appreciated the staff who have signed up for the Voluntary Time Off program.

MOTION #5:

Council Member Land made a motion, Hansen second, to adopt Resolution No. 2003-107 approving the 2003-05 Financial Plan and Budget for the fiscal year beginning July 1, 2003, and ending June 30, 2005, and further approving the 2003-04 Appropriation Spending Limit.

DISCUSSION:

Council Member Hansen stated that he was comfortable with the budget and the policies that the preceding Councils adopted. He commended the City Manager for enabling line staff to have input in the budget, which will result in more buy-in for the Voluntary Time Off program. He disagreed with the Mayor's interpretation that by not itemizing Other Sources and Uses, the City is not fully disclosing the budget.

Mayor Hitchcock asked Ms. McAthie to provide Council with a detailed breakdown of Other Sources and Uses, in addition to a copy of the policy that Council adopted related to the budget format and listing Other Sources and Uses in this manner.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Howard, and Land

Noes: Council Members – Mayor Hitchcock

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Howard, Hitchcock second, unanimously voted to consider only Item I-4 following the 11:00 p.m. hour and continue the remainder of the meeting to July 2, 2003.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous

- a) "Monthly Protocol Account Report" was ***continued to the regular meeting of July 2, due to the above vote.***

I. REGULAR CALENDAR

I-1 "State Budget update" was ***continued to the regular meeting of July 2, due to the above vote.***

I-2 "Adopt resolution authorizing reallocation from 2002-03 unencumbered funds for the purchase of notebook computers (up to five at \$1,900 each)" was ***continued to the regular meeting of July 2, due to the above vote.***

I-3 "Adopt resolution authorizing the City Manager to execute an amendment to the Memorandum of Understanding between the City of Lodi and various Railroads approved by Council on September 18, 2002" was ***continued to the regular meeting of July 2, due to the above vote.***

I-4 "Adopt resolution authorizing the City Manager to execute a Purchase Order in the amount of \$15,000 in accordance with Lodi Municipal Code Section 3.20.070 for pre-purchasing 100 side inlet catch basin assemblies from South Bay Foundry and appropriate funds"

Wally Sandelin, City Engineer, reported that he and George Bradley, Street Superintendent, have been working on a redesign for three to four months and have negotiated an arrangement with the South Bay Foundry, whereby if the City guarantees it will buy 100 side inlet catch basin assemblies, they will go ahead and make the form. A stainless steel bar will be installed midway in the side inlet catch basin. South Bay Foundry will keep the catch basins at its factory. Developers can purchase them from the Foundry, from the ones that have been preordered.

In reply to Council Member Hansen, Mr. Sandelin reported that there are two types of side inlet catch basins. In the older portions of the community they have a mid-span bar and beginning approximately three years ago the City went to the modified standard.

PUBLIC COMMENTS:

- Arthur Price expressed concern about the steep pitch leading down to the pipe.

Mr. Sandelin replied that Public Works will be modifying the degree of the drop.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2003-108 authorizing the City Manager to execute a Purchase Order in the amount of \$15,000 in accordance with Lodi Municipal Code Section 3.20.070 for pre-purchasing 100 side inlet catch basin assemblies from South Bay Foundry and appropriated funds in accordance with staff recommendation.

- I-5 "Approve design concept for Lockeford Street Storm Drainage Improvements" was ***continued to the regular meeting of July 2, due to the above vote.***
- I-6 "Adopt resolution awarding contract for Kettleman Lane Median Improvements, Hutchins Street to School Street to Clayborn Contracting Group, Inc., of Auburn (\$129,060), and appropriate funds" was ***continued to the regular meeting of July 2, due to the above vote.***
- E-9 "Adopt resolution authorizing the Public Works Director to cast ballots representing City-owned properties in favor of the North San Joaquin Water Conservation District acreage charge (\$200)" was ***continued to the regular meeting of July 2, due to the above vote.***

J. ORDINANCES

- J-1 Ordinance No. 1731 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning the Parcels Located at 13669 North Cherokee Lane; 4071, 4145, and 4219 East Harney Lane; and 1443 East Harney Lane (APN 062-290-14, 17, 37, and 38 and APN 058-230-17) from San Joaquin County RL, Residential Low Density and AU-20 Agriculture Urban Reserve to R-2, Single Family Residential" was ***continued to the regular meeting of July 2, due to the above vote.***

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Hitchcock announced that a representative from Senator Poochigian's office will be at the Carnegie Forum tomorrow from 1:00 to 4:30 p.m.
- Mayor Pro Tempore Howard noted that Council will be considering a proposed salary adjustment for management employees. She asked City Manager Flynn not to implement a salary adjustment for the Interim Parks and Recreation Director, or compensation for the new responsibilities of the Deputy City Manager or Community Development Director until Council has an opportunity to discuss these matters all at the same time.
- Council Member Hansen announced that his vacation starts tomorrow morning.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Randy and Dori Hays are celebrating their 37<sup>th</sup> anniversary today.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:09 p.m.

ATTEST:

Susan J. Blackston  
City Clerk